United States Court of Appeals

for the Second Circuit

APPELLANT'S BRIEF & APPENDIX

77-7204

Brs

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

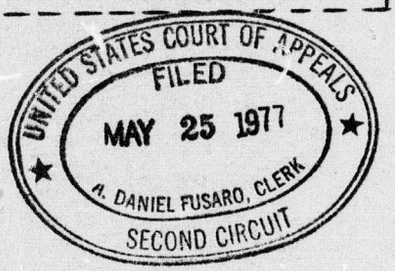
GABINO ORTIZ,

Plaintiff-Appellant,

V.

NEW YORK PROPERTY UNDERWRITING ASSOCIATION FAIR PLAN INSURANCE,

Defendant-Appellee



DOCKET NO. 77-7204

APPELLANT'S BRIEF AND APPENDIX

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

GABINO ORTIZ,
Plaintiff-Appellant

v.

NEW YORK PROPERTY UNDERWRITING ASSOCIATION

FAIR PLAN INSURANCE
Defendant-Appelee

DOCKET NO. 77-7204

Appellant's Brief

May 24, 1977

Sir

The court's error was in accepting the insurance company's motion to have decision denied because it was outside of the court's jusrisdiction. I consider this a mistake. I am a citizen of the United States. As a citizen I have a right to appeal and I want the court to reaffirm this right. This court where legal justice is done. This is the only court where I have confidence that I will not be discriminated against. In this court is where I await this case to be seen. I do not have the confidence in the State Court that I have in this Federal Court. I ask that this application be not denied and the case be tried in court. This case concerns a building destroyed by fire and in any court the insurance company would have to pay on the policy. I also say to the Federal Court that I have been a victim of the State Court.

These have been my reasons for coming to the Federal Court. The Federal court has proved to be more ecomical for me to pursue this case. I would appreciate the court letting me pursue this case because I am in a ridiculously poor economic situation. I have not worked since the destruction of this building and the court may well consider my plight. I will present myself August 15, 1977 prepared to go to trial. I expect that the owner of the insurance company will appear in person. In this way an accord can be made with me and the court. I have tried a lot to reach an agreement. I have tried via an adjustor and

later when I wrote directly my letters were not answered. My last letter, notarized July 22, 1976 was not answered. My last recourse was to go to a Federal Court because that is where I can get justice. All my above statements are true and I expect that the court will give me my rights.

Gabino Ortiz

GABINO ORTIZ

3785 Broadway Rm. 11
New York, N.Y. 10032

NEW YORK PROPERTY UNDERWRITING
ASSOCIATION

FAIR PLAN INSURANCE
110 William St.
New York, New York 10038

The State Courts have deprived me of all my constitutional rights and deprived me of my property without due process of law.

Article 5 U.S. Constitution

ORIGINAL

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED
APR 13 1977
S. D. OF N. Y.

GABINO ORTIZ,

Plaintiff,

-against-

NEW YORK PROPERTY UNDERWRITING ASS'N. FAIR PLAN INSURANCE,

Defendant.

MEMORANDUM DECISION

76 Civ. 4459

Pro Se

MICROFILM
APR 13 1977

GAGLIARDI, D. J.

Plaintiff's motion for leave to proceed on appeal in forma pauperis is denied. On January 20, 1977, this court dismissed plaintiff's action for lack of subject matter jurisdiction. Plaintiff and defendant are both New York citizens and, therefore, there is no proper allegation of diversity jurisdiction as required under 28 U.S.C. §1332.

This court certifies that any appeal from this decision would be frivolous and accordingly not taken in good faith. Rule 24(a) Fed. R. App. P. and 28 U.S.C. §1915; see Coppedge v. United States, 369 U.S. 438, 445 (1962); United States v. Visconti, 261 F.2d 215, 218 (2d Cir. 1958), cert. denied, 359 U.S. 954 (1959).

So Ordered.

U.S.D.J.

Dated: New York, New York
April 11, 1977.